

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUSTIN H. PHILLIPS,

Plaintiff,

v.

UNITED STATES BUREAU OF THE CENSUS,

Defendant.

No. 22-cv-09304-JSR

**DECLARATION OF THERESA J. LEE IN SUPPORT OF
PLAINTIFF'S MOTION FOR ATTORNEYS' FEES**

I, Theresa J. Lee, am over the age of 18 and competent to make this declaration. Pursuant to 28 U.S.C. § 1746 and the laws of the United States, I state the following:

1. I am the Litigation Director and Clinical Instructor at the Election Law Clinic at Harvard Law School, and one of the attorneys for Plaintiff Justin H. Phillips in the above-captioned case. I submit this declaration based on personal knowledge, in support of the Plaintiff's application for attorneys' fees.

2. On Plaintiff's behalf, I seek costs and reasonable attorneys' fees in the amount of \$94,729.74. This combines the 49.9 hours of work I did at the hourly rate of \$686.99, as well as the 40.1 hours of work Ruth Greenwood did at the hourly rate of \$686.99, the 56.1 hours of work Jeff Zalesin did at the hourly rate of \$499.63, and the 6.0 hours of work done by Jordan Goldstein at the hourly rate of \$811.90. The figure also includes Plaintiff's costs of \$649.70 to cover certified mailing and filing fees. The calculation of these amounts is demonstrated in Exhibit 1.

Counsel's Billing Records

3. I have attached my time records for the prosecution of the FOIA proceeding as Exhibit 2. These time sheets are based on contemporaneous records and, in an effort to make a reasonable demand, do not include the work spent preparing this fee application. I undertook 49.9 hours of work in this case for which Plaintiff is seeking to recover fees, as reflected in Exhibit 2. I believe the 49.9 hours I expended were reasonable and necessary for the success of this case.

4. The work that Plaintiff's counsel have performed to date, and for which Plaintiff seeks to recover its costs and reasonable attorney's fees, includes, among other tasks: drafting pleadings and other court documents, preparing for and attending status conferences with Judge Rakoff, settlement negotiations, preliminary work with experts in advance of motion for summary judgment, and communications with Plaintiff.

5. Plaintiff does not seek to recover fees for time spent litigating this fee application.

6. Plaintiff also incurred costs associated with this action consisting of \$47.70 in certified mailing and \$602.00 in filing fees. I have attached receipts for these costs as Exhibit 3.

Theresa J. Lee's Qualifications

7. I received my J.D. from Yale Law School in February 2011. I then served as an Associate Research Scholar in Law, San Francisco Affirmative Litigation Project Fellow, and Lecturer in Law at Yale Law School, teaching a legal clinic and litigating with the San Francisco City Attorney's Office. I was then a law clerk to the Honorable Rosemary S. Pooler of the United States Court of Appeals for the Second Circuit. I worked as an associate at two law firms in New York before joining the ACLU in 2017. My practice at the ACLU was devoted exclusively to the protection and expansion of voting rights. In August 2021, I left the ACLU to join the Election Law Clinic at Harvard Law School, where my legal practice continues to be exclusively devoted

to the protection and expansion of voting rights, along with teaching law students how to practice this type of law.

8. I have litigated numerous voting rights and election law cases in both federal and state courts, including *American Civil Liberties Union v. Trump*, No. 17-cv-1351 (D.D.C.); *Casey v. Gardner*, No. 19-cv-149 (D.N.H.); *Citizens Project v. City of Colorado Springs*, No. 22-cv-1365 (D. Colo.); *Hotze v. Hollins*, No. 4:20-cv-03709 (S.D. Tex.); *Jacksonville Branch of the NAACP v. City of Jacksonville*, No. 22-cv-493 (M.D. Fla.); *League of Women Voters of Michigan v. Benson*, No. 353654 (Mich. Ct. of Appeals); *League of Women Voters of Tennessee v. Hargett*, No. 19-cv-365 (M.D. Tenn.); *League of Women Voters of Virginia v. Virginia Board of Elections*, No. 20-cv-0024 (W.D. Va.); *NAACP Minnesota-Dakotas Area State Conference v. Simon*, No. 62-cv-20-3625 (Minn. Dist. Ct.); *Ocasio v. Comision Estatal de Elecciones*, No. 20-cv-1432 (D.P.R.); *Ohio A. Philip Randolph Institute v. Householder*, No. 18-cv-357 (S.D. Ohio); *Ohio A. Philip Randolph Institute v. Husted*, 138 S. Ct. 1833 (2018); *Oppenheim v. Watson*, No. 25CH1:20-cv-00961 (Miss. Chancery Ct.); *Schroeder v. Simon*, No. 62-CV-19-7440 (Minn. Dist. Ct.); *Staples v. DeSantis*, No. 2021 CA 1781 (Fla. Cir. Ct.); *Thomas v. Andino*, No. 20-cv-1552 (D.S.C.); *Trump v. New York*, No. 20-366 (U.S.); *Western Native Voice v. Stapleton*, DV 20-0377 (Mont. Dist. Ct.); *Western Native Voice v. Jacobsen*, DV 21-0451 (Mont. Dist. Ct.). I have also drafted and submitted amicus briefs concerning voting rights issues for cases in the U.S. Supreme Court, multiple U.S. Courts of Appeals, and in various state supreme courts.

9. I am admitted to practice before the U.S. Supreme Court, U.S. Court of Appeals for the Second Circuit, U.S. Court of Appeals for the Fifth Circuit, U.S. Court of Appeals for the Sixth Circuit, U.S. Court of Appeals for the Ninth Circuit, U.S. Court of Appeals for the 11th Circuit, U.S. District Court for the District of Colorado, U.S. District Court for the Eastern District of New

York, and the U.S. District Court for the Southern District of New York. I have been admitted pro hac vice in several other U.S. District Courts and in various state courts.

10. I was admitted to the New York State Bar (Bar No. 5022769) on April 9, 2012, and remain in good standing. I was admitted to the Bar of the Commonwealth of Massachusetts on June 14, 2023, and remain in good standing.

11. I have not been disciplined by any state or federal bar and there are no disciplinary proceedings pending against me as a member of the bar in any jurisdiction.

Fees and Costs Sought

12. As set forth above, Plaintiff respectfully requests \$95,379.83 in total costs and reasonable attorney's fees. This figure combines the \$649.70 incurred in expenses with the 49.9 hours of work I did at the hourly rate of \$686.99 as well as the 40.1 hours of work Ruth Greenwood did at the hourly rate of \$686.99, the 56.1 hours of work Jeff Zalesin did at the hourly rate of \$499.63, and the 6.0 hours of work done by Jordan Goldstein at the hourly rate of \$811.90. *See* Exhibit 1.

13. The combined 152.1 hours spent litigating this action were reasonable and necessary to achieve success.

Exhibits

14. Attached to this Declaration are true and accurate copies of the following exhibits:

Exhibit 1 Summary of calculation of total fees and costs

Exhibit 2: My detailed time records in this matter

Exhibit 3 Receipts for costs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 11th day of August, 2023,

/s/ Theresa J. Lee
Theresa J. Lee

EXHIBIT 1
Plaintiff's Fees and Costs Summary

FEES				
Name	Law school year	Hourly Rate	Hours	Total
Jordan Goldstein	2002	\$811.90	6.0	\$4,871.40
Ruth Greenwood	2009	\$686.99	40.1	\$27,548.30
Theresa Lee	2011	\$686.99	49.9	\$34,280.80
Jeff Zalesin	2019	\$499.63	56.1	\$28,029.24
Total Fees				\$94,729.74
COSTS				
Certified mailing				\$47.70
Filings				\$602.00
Total Costs				\$649.70
TOTAL FEES AND COSTS				\$95,379.44

EXHIBIT 2

Plaintiff's Attorney Theresa Lee Time Entry Ledger

Date	Description	Time
5/31/22	Meet with J Phillips re FOIA request	0.6
6/2/22	Edit FOIA request	1.1
6/7/22	Emails with J Phillips and co-counsel re FOIA request	0.5
6/8/22	Edit FOIA request and co-counsel agreement; email J Zalesin re same; e-mail J Phillips re draft FOIA	1.2
6/15/22	Edit FOIA request	0.8
6/17/22	Edit FOIA request; email co-counsel re same	1.3
6/28/22	Finalize FOIA request; email co-counsel re same; email J Phillips re same	1.6
7/7/22	Finalize and submit FOIA request; update client re same	2
8/26/22	Email co-counsel re grant of fee waiver and request to expedite	0.4
8/29/22	Email J Phillips re FOIA status	0.3
9/8/22	Video call with co-counsel re next steps	0.5
9/22/22	Review draft motion to expedite; review email to Census Bureau	0.7
9/22/22	Meet with team re case plan, next steps	1
9/29/22	Video call with team re draft complaint	1
9/29/22	Review memorandum re experts	0.7
9/29/22	Review draft complaint	1.2
10/6/22	Video call with team re revisions to complaint and next steps	0.9
10/13/22	Video call with team re complaint and plan for filing	1
10/13/22	Edit draft complaint	1.4
10/14/22	Review memorandum re authority to expedite	0.7
10/20/22	Video call with team re revised complaint, filing plan, possible motion to expedite	1
10/20/22	Review materials for filing	0.8
10/26/22	Review memorandum re discovery; revised complaint draft	1
10/27/22	Video call with team re filing, motion papers, revisions	1
10/27/22	Review co-counsel edits to motion to expedite	0.3
10/30/22	Finalize complaint and filing materials	1.1
10/31/22	Review SDNY ECF rules; file complaint and originating documents	1.2
10/31/22	Communicate with V Miller re summonses, service of the complaint	0.6
11/2/22	Emails with co-counsel re Census Bureau statement	0.3
11/3/22	Meet with J Phillips re case update; w counsel team re next steps	0.6
11/4/22	Communicate with V Miller re address for service; revise service affidavit	0.4
11/8/22	File affidavits of service for complaint and R Greenwood PHV	0.5
11/10/22	Video call with team re next steps, case strategy	0.7
11/17/22	Video call with team re case plan, memos re discovery	1
11/17/22	Review letter from Census Bureau	0.4
11/17/22	Draft responsive letter to Census Bureau	0.6
11/18/22	Review memorandum re discovery motion	0.9
12/1/22	Meet with team re case management plan, research Qs	0.5
12/1/22	Review denial letter from Census Bureau, email team re same	0.2
12/2/22	Email J Phillips re FOIA denial	0.2
12/2/22	Meet with counsel team re FOIA denial and next steps	0.6

12/8/22	Video call with counsel team re Case Mgmt Order	1
12/8/22	Review draft letter to Chambers	0.4
12/9/22	Video call with J Phillips re case update, discovery	0.3
12/12/22	Meet and confer with Defendants counsel re discovery	0.6
12/12/22	Edit Joint Rule 26(f) report; email R Greenwood, J Zalesin re same	0.3
12/13/22	Review 26(f) report; emails with R Greenwood and J Zalesin re same; call with R Greenwood re same; e-mail AUSA re same	0.3
12/13/22	Finalize and file 26(f) Report	0.4
12/15/22	Team meeting re court conference, discovery	0.4
12/15/22	Research re discovery in FOIA cases	0.6
12/19/22	Prep call with J Zalesin, R Greenwood, J Goldstein	1
12/20/22	Counsel team call re next steps	0.3
12/20/22	Team de-brief; case planning	0.3
1/11/23	Team call	0.3
1/18/23	Call with USAO; debrief call w counsel team	0.5
1/19/23	E-mail with co-counsel re response to USAO	0.1
1/23/23	Team call re communication from opposing counsel, case status	0.8
1/25/23	Meet-and-confer with J Vargas; debrief counsel call	0.7
1/25/23	Team call with M Altman	0.5
1/25/23	Team call re case status	0.4
1/26/23	Review SDNY ECF events; file law student appearance; email co-counsel re same	0.6
1/30/23	E-mail case team communication from chambers re schedule	0.1
1/30/23	Review email to USAO	0.1
2/1/23	Team meeting re case status	0.2
2/15/23	Counsel team call re next steps	0.6
2/27/23	Review and comment on draft MSJ	1.1
3/1/23	Team call re FOIA request and MSJ	0.9
3/8/23	Team meeting re next steps	0.3
3/10/23	Review D Herndon email to USAO; communicate w R Greenwood re same	0.2
3/29/23	Team meeting re potential resolution	0.7
4/3/23	Revise MSJ and MOL ISO MSJ	0.8
4/4/23	Meet-and-confer w USAO re data release; internal debrief convo	0.6
4/5/23	Call w J Phillips; team call re next steps and MSJ	0.6
4/8/23	Review and edit stipulation; email counsel team re same	0.4
4/10/23	Call USAO; call chambers; file Stipulation and Order of Dismissal	0.4
4/19/23	Team meeting re fees, wrap up	0.3
Total		49.9

EXHIBIT 3
Receipts for Fees and Costs

Fees and Costs	
\$ 402.00	Filing Fee for Complaint
\$ 200.00	Fee for Pro Hac Vice of Ruth Greenwood
\$ 47.70	Cost for Certified Mail of Complaint
\$ 649.70	Total

Receipt for \$402: Filing Fee for Complaint

FW: Pay.gov Payment Confirmation: NEW YORK SOUTHERN DISTRICT COURT



ⓧ Lee, Theresa J. <thlee@law...

Monday, October 31, 2022 at 9:55 AM

To: ✓ Miller, Veniece; 🕒 Greenwood, Ruth

Receipt for Filing *Phillips v. US Census Bureau*.

Theresa J. Lee | she/her

Litigation Director & Clinical Instructor

Election Law Clinic, Harvard Law School

(617) 496-0370 | thlee@law.harvard.edu | hlselectionlaw.org

From: do_not_reply@psc.uscourts.gov <do_not_reply@psc.uscourts.gov>

Date: Monday, October 31, 2022 at 9:40 AM

To: Lee, Theresa J. <thlee@law.harvard.edu>

Subject: Pay.gov Payment Confirmation: NEW YORK SOUTHERN DISTRICT COURT

Your payment has been successfully processed and the details are below. If you have any questions or you wish to cancel this payment, please contact: Helpdesk at 212-805-0800.

Account Number: 4157271

Court: NEW YORK SOUTHERN DISTRICT COURT

Amount: \$402.00

Tracking Id: ANYSDC-26892526

Approval Code: 02847Z

Card Number: *****6541

Date/Time: 10/31/2022 09:40:11 ET

NOTE: This is an automated message. Please do not reply

Receipt for \$200: Fee for Pro Hac Vice of Ruth Greenwood

Tuesday, November 1, 2022 at 11:38:27 Eastern Daylight Time

Subject: Pay.gov Payment Confirmation: NEW YORK SOUTHERN DISTRICT COURT

Date: Monday, October 31, 2022 at 9:01:47 PM Eastern Daylight Time

From: do_not_reply@psc.uscourts.gov

To: Greenwood, Ruth

Your payment has been successfully processed and the details are below. If you have any questions or you wish to cancel this payment, please contact: Helpdesk at 212-805-0800.

Account Number: 5725739

Court: NEW YORK SOUTHERN DISTRICT COURT

Amount: \$200.00

Tracking Id: ANYSDC-26898438

Approval Code: 00350Z

Card Number: *****6541

Date/Time: 10/31/2022 09:01:40 ET

NOTE: This is an automated message. Please do not reply

Receipts for Combined Total of \$47.70: Cost for Certified Mail of Complaint

UNITED STATES POSTAL SERVICE.

HARVARD SQUARE
125 MOUNT AUBURN ST STE 1
CAMBRIDGE, MA 02138-9998
(800)275-8777

11/01/2022 03:39 PM

Product	Qty	Unit Price	Price
Priority Mail®	1		\$9.90
Flat Rate Env			
Suitland, MD 20746			
Flat Rate			
Expected Delivery Date			
Thu 11/03/2022			
Certified Mail®			\$4.00
Tracking #:			
70220410000066038348			
e-Return Receipt			\$2.00
Total			\$15.90
Priority Mail®	1		\$9.90
Flat Rate Env			
New York, NY 10007			
Flat Rate			
Expected Delivery Date			
Thu 11/03/2022			
Certified Mail®			\$4.00
Tracking #:			
70220410000066038355			
e-Return Receipt			\$2.00
Total			\$15.90
Grand Total:			\$31.80
Credit Card Remit			\$31.80
Card Name: AMEX			
Account #: XXXXXXXXXXXX1004			
Approval #: 868328			
Transaction #: 440			
AID: A000000025010801 Contactless			
AL: AMERICAN EXPRESS			
PIN: Not Required			



HARVARD SQUARE
125 MOUNT AUBURN ST STE 1
CAMBRIDGE, MA 02138-9998
(800) 275-8777

11/04/2022

05:23 PM

Product	Qty	Unit Price	Price
Priority Mail®	1		\$9.90
Flat Rate Env			
Washington, DC 20233			
Flat Rate			
Expected Delivery Date			
Mon 11/07/2022			
Certified Mail®			\$4.00
Tracking #:			
70220410000066038362			
e-Return Receipt			\$2.00
Total			\$15.90

Grand Total: \$15.90

Credit Card Remit \$15.90

Card Name: AMEX
Account #: XXXXXXXXXXX1004
Approval #: 828726
Transaction #: 841
AID: A000000025010801 Contactless
AL: AMERICAN EXPRESS
PIN: Not Required

Use label # for inquiry on
Return Receipt (Electronic).

In a hurry? Self-service kiosks offer
quick and easy check-out. Any Retail
Associate can show you how.

Text your tracking number to 28777 (2USPS)
to get the latest status. Standard Message
and Data rates may apply. You may also
visit www.usps.com USPS Tracking or call
1-800-222-1811.

For Return Receipt (by email), visit